

## Office of the Secretary of Defense

## § 270.2

### § 269.5 Application of increase to violations.

Any increase in a civil monetary penalty under this part shall apply only to violations which occur after the date the increase takes effect.

## PART 270—COMPENSATION OF CERTAIN FORMER OPERATIVES INCARCERATED BY THE DEMOCRATIC REPUBLIC OF VIETNAM

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#### APPENDIX A TO PART 270—APPLICATION FOR COMPENSATION OF VIETNAMESE COMMANDOS

AUTHORITY: Sec. 657, Pub. L. 104-201, 110 Stat. 2422.

SOURCE: 63 FR 3472, Jan. 23, 1998, unless otherwise noted.

### Subpart A—General

#### § 270.1 Purpose.

The purpose of this part is to implement section 657 of the National Defense Authorization Act for Fiscal Year 1997 (Pub. L. 104-201), which authorizes the Secretary of Defense to make payments to persons who demonstrate to the satisfaction of the Secretary of Defense that the persons were captured and incarcerated by the Democratic Republic of Vietnam as a result of the participation by the persons in certain operations conducted by the Republic of Vietnam.

#### § 270.2 Definitions.

(a) *Applicant*. A person applying for payments under this part.

(b) *Child of an eligible person*. A recognized natural child, an adopted child, or a stepchild who lived with the eligible person in a regular parent-child relationship.

(c) *Parents of an eligible person*. Natural parents, adoptive parents, or step parents of a deceased person described in Part A of appendix A to this part. (Step parents must show that they established a parent-child relationship with the deceased person described in Part A of appendix A to this part.)

(d) *Siblings by blood of an eligible person*. Siblings related by blood to a deceased person described in Part A of appendix A to this part, including half-brothers and half-sisters.

(e) *The Commission*. The Commission authorized to oversee payments to certain persons captured and incarcerated by the Democratic Republic of Vietnam, established under this part.

(f) *Eligible person*. A person determined by the Commission as eligible for payment under subpart C of this part.

(g) *OPLAN 34A*. The operation carried out under the auspices of the government of South Vietnam and the U.S. Military Assistance Command Vietnam, Studies and Observations Group (MACV/SOG), starting in 1964, which inserted commandos into North Vietnam for the purpose of conducting intelligence and other military activities. OPLAN 34A also refers to predecessor operations which were precursors to OPLAN 34A operations. OP 35 refers to

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the small military units which were sent to conduct sabotage, reconnaissance, exploitation and other intelligence missions on or around the borders of Vietnam and Laos.

(h) *North Vietnam*. The Democratic Republic of Vietnam.

(i) *OSD*. The Office of the Secretary of Defense.

(j) *The Secretary*. The Assistant Secretary of Defense (Force Management Policy).

(k) *South Vietnam*. The Republic of Vietnam.

(l) *Spouse of an eligible person*. Someone who was married to that eligible person for at least 1 year immediately before the death of the eligible person.

(m) *Required declaration*. The statements to be signed and notarized in appendix A to this part. All applicants must sign part C and either part A or part B of appendix A to this part.

[63 FR 3472, Jan. 23, 1998, as amended at 63 FR 68195, Dec. 10, 1998]

### § 270.3 Effective date.

This part is effective on May 15, 1997.

## Subpart B—Commission

### § 270.4 Membership.

The Secretary shall establish within OSD a Commission that is composed of the following voting members: one representative from the Office of the Under Secretary of Defense for Personnel and Readiness, who shall be the chairman of the Commission, one representative from the Office of the Under Secretary of Defense for Policy, and one representative from each of the military departments. Members of the Commission may be either military or civilian and all members must possess, at a minimum, a Secret clearance.

### § 270.5 Staff.

(a) The Commission will have a support staff, which will include staff members sufficient to expeditiously and efficiently process the applications for payments under this part. All members of the staff will possess, as a minimum, a Top Secret clearance because of the sensitive nature of the informa-

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tion that may require review in determining eligibility of claimants.

(b) The Secretary will ensure that the Commission has all administrative support, including space, office and automated equipment and translation services, needed for the efficient and expeditious review and payment of claims. The Secretary may task appropriate Department of Defense elements to provide such support, either through assignment of personnel or the hiring of independent contractors.

## Subpart C—Standards and Verification of Eligibility

### § 270.6 Standards of eligibility.

(a) A person is eligible for payments under this part if such person:

(1) Was captured and incarcerated by North Vietnam as a result of his participation in operations conducted under OPLAN 34A or its predecessor operation; or

(2) Served as a Vietnamese operative under OP 35, and was captured and incarcerated by North Vietnamese forces as a result of the participation by the person in operations in Laos or along the Lao-Vietnamese border pursuant to OP 35, and

(i) Was captured and incarcerated by the North Vietnamese, and remained in captivity after 1973 (or died in captivity) after participation in OP 35, and

(ii) Has not previously received payment for the United States Government after 1972 from the period spent in captivity.

(b) In the case of a decedent who would have been eligible for a payment under this part if alive, payment will be made to the survivors of the decedent in the following order:

(1) To the surviving spouse of an eligible person; or

(2) If there is no surviving spouse of an eligible person, to the surviving children of an eligible person, in equal shares; or

(3) If there is no surviving spouse of an eligible person and no surviving children of an eligible person, to the surviving parents of an eligible person, in equal shares (step parents take equal shares the same as natural parents); or